

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MALKA RANI, *individually and on behalf of*
all other similarly situated individuals,

Plaintiff,

ORDER

19-CV-5186 (MKB) (ST)

v.

MICHAEL A. DROBENARE,

Defendant.

MARGO K. BRODIE, United States District Judge:

Plaintiff Malka Rani, commenced the above-captioned action, individually and on behalf of a putative class, on September 11, 2019, against Defendant Michael A. Drobena, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”). (Compl. ¶¶ 1–2, 17–22, 32–37, Docket Entry No. 1.) On February 13, 2020, Plaintiff moved for a default judgment and requested \$1,000 in statutory damages, \$4,320 in attorney fees, and \$456.85 in costs. (Pl. Mot. for Default J., Docket Entry No. 9; Pl. Mem. in Support of Default J. ¶¶ 10–11, Docket Entry 9-2.)

For the reasons explained below, the Court grants Plaintiff’s motion for a default judgment, finds Defendant liable for violating sections 1692e(11) and 1692g(a) of the FDCPA, awards Plaintiff damages in the amount of \$900, consisting of \$500 in statutory damages and costs totaling \$400, and denies Plaintiff’s request for additional costs and attorneys’ fees, but grants Plaintiff leave to submit supporting documentation within thirty (30) days of this Order.

I. Background

By Order dated December 13, 2019, Magistrate Judge Steven Tiscione directed Plaintiff to file a motion for a default judgment against Defendant by February 13, 2020. (Order dated Dec. 13, 2019; Status Report dated Dec. 13, 2019, Docket Entry 8.) Plaintiff subsequently moved for a default judgment requesting \$1,000 in statutory damages, \$4,320 in attorney fees, and \$456.85 in costs. (Pl. Mot. for Default J., Docket Entry No. 9; Pl. Mem. in Supp. of Default J. ¶¶ 10–11, Docket Entry 9-2.)

By Order dated February 19, 2020, the Court referred the motion for a default judgment to Judge Tiscione for a report and recommendation, (Order dated Feb. 19, 2020), and by report and recommendation dated August 19, 2020, Judge Tiscione recommended that the Court grant in part and deny in part Plaintiff’s motion, (R&R (the “R&R”), Docket Entry No. 10). Judge Tiscione recommended that “Defendant be found liable of violating sections 1692e(11) and 1692g(a) of the FDCPA,” that the Court award Plaintiff statutory damages in the amount of \$500 plus \$400 in costs, for a total damages award of \$900, and that the Court deny Plaintiff’s motion for additional costs and attorneys’ fees without prejudice, with leave to submit a renewed motion for attorneys’ fees with supporting evidence within thirty (30) days of the entry of judgment in this case. (*Id.* at 1–2, 20.)

No party has objected to the R&R and the time for doing so has passed.

II. Discussion

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further

judicial review of the magistrate's decision." *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (quoting *Mario v. P&C Food Markets, Inc.*, 313 F.3d 758, 766 (2d Cir. 2002)); *see also Almonte v. Suffolk Cty.*, 531 F. App'x 107, 109 (2d Cir. 2013) ("As a rule, a party's failure to object to any purported error or omission in a magistrate judge's report waives further judicial review of the point." (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Sepe v. N.Y. State Ins. Fund*, 466 F. App'x 49, 50 (2d Cir. 2012) (quoting *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) ("[A] party waives appellate review of a decision in a magistrate judge's [r]eport and [r]ecommendation if the party fails to file timely objections designating the particular issue." (citations omitted)).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R in its entirety pursuant to 28 U.S.C. § 636(b)(1).

III. Conclusion

For the reasons set forth above, the Court adopts the R&R and grants Plaintiff's motion for default judgment in part, and awards Plaintiff statutory damages in the amount of \$500 plus \$400 in costs, for a total damages award of \$900. The Court also grants Plaintiff thirty (30) days from the date of this Order to submit documentation to support Plaintiff's request for additional

costs and attorneys' fees. If Plaintiff fails to timely submit documentation, the Court will close this case. The Court directs Plaintiff to mail a copy of this Order to Defendant at the address of record.

Dated: September 9, 2020
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge